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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,086	11/29/2004	Eiji Kasutani	18463	9654
Paul J Esatto Jr Scully Scott Murphy & Presser 400 Garden City Plaza Suite 300 Garden City, NY 11530				
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EXAMINER				
PATEL, JAYESH A				
ART UNIT		PAPER NUMBER		
2624				
MAIL DATE		DELIVERY MODE		
03/20/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/516,086	Applicant(s) KASUTANI ET AL.
Examiner JAYESH A. PATEL	Art Unit 2624

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-5,9-15,19,20,22 and 23.
Claim(s) withdrawn from consideration: 11,19 and 20.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

/J.W./
Supervisory Patent Examiner, Art Unit 2624

Continuation of 13. Other: The preliminary amendment to the claims dated November 29, 2004 has been entered. The election to restriction requirement was made and in view of the Election the Claims stand as follows. Claims 1-5, 9, 10, 12-15, 22 and 23 have been elected. Claims 11, 19 and 20 are withdrawn. The minor correction in Claim 1 reciting "said color layout features" has been considered. The applicant argues on page 9 regarding claims 1, 3, 9 and 10 that Bruckhaus does not disclose "a representative feature calculating unit disclosed for calculating a representative color layout feature representative of said image sequence from a group of said layout features of all frames", the examiner disagrees. The explanations were made earlier in the final rejection although for better clarification see the below explanation. Bruckhaus discloses in Col 4 Lines 35-59 where a unit extractor 215 extracts (a set of pixels i.e. grouping of orange coloured pixels) and groups them together in previous and subsequent frames which clearly shows the feature extraction of colour layout features from respective frames of the image sequence. Applicant further discloses that the color layout features are the color component values such as luminance (brightness) and Bruckhaus has a support to this disclosure at Col 4 Lines 44 where the brightness of the features is disclosed. Bruckhaus further discloses at Col 5 lines 32-55 where the unit representation engine 230 examines and selects the units (i.e. color features) that best represent the sequence and the image engine 235 uses the selected units to generate a representative image. The explanation to the claimed limitation is further supported in col 10 lines 25-47. Applicant further argues on (Page 10 and 11) that, Bruckhaus does not disclose the color layout features defined in the specifications such as total or average color feature value, the examiner disagrees. Bruckhaus discloses attributes (color brightness and motion that are color luminance and difference in color due to the motion at (Col 5 Lines 16-25). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *in re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Further the arguments to the limitations "such as average or median color feature value" are not recited in the rejected claims 1-3, 9-10. The applicant argues on page 11 regarding the Claims 12-15, 22 and 23 that Nagasaka does not disclose "a frame feature extractor that extracts color layout features", the examiner disagrees. Nagasaka discloses a "mean color of the whole frame image" at Col 5 Lines 43-44 which is the color layout feature. Nagasaka further discloses a frame feature extractor 106 extracts features from frame images, and the feature table generator 112 generates (pairs up) the representative image at (col 5 lines 1-32 and 33-67). Nagasaka further discloses that 10 or more features can be extracted from the scene at Col 5 Lines 61-62) which shows that the features are extracted. For arguments with respect to the claims 4-5 on page 12 see the discussion above. .